

Message Text

CONFIDENTIAL

PAGE 01 STATE 181984

61
ORIGIN PM-04

INFO OCT-01 EA-07 ISO-00 SSO-00 NSCE-00 INRE-00 NSC-05

SP-02 SS-15 L-03 CIAE-00 INR-07 NSAE-00 OMB-01 USPS-01

EB-07 /053 R

DRAFTED BY PM/ISO:GCHURCHILL/L/EA:EVERVILLE:KA

APPROVED BY EA:RHMILLER

DOD/ISA/ISA:SGOLDSMITH (DRAFT)

EA/PHL:BAFLECK

EA/PHL:JELAKE

----- 114087

O R 230035Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

INFO SECDEF WASHDC

JCS WASHDC

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL

CG 13TH AF

CONFIDENTIAL STATE 181984

MANILA FOR USDEL, CINCPAC ALSO FOR POLAD

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT:PHILIPPINE BASE NEGOTIATIONS: TAXATION

REF: A. MANILA 10276 USDEL 120, B. MANILA 10020 USDEL 104

1. APPRECIATE STRATEGY YOUR PROPOSAL REF A TO DRAW PHILS
AWAY FROM INTRACTABLE TAX ISSUE BY AN OFFER TO MAXIMIZE USE
OF PHIL CONTRACTORS. WE BELIEVE YOUR STRATEGY WARRANTS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 181984

FURTHER PURSUIT. HOWEVER, WE DO HAVE MISGIVINGS ABOUT RE-

OPENING TENTATIVELY AGREED TEXT OF ARTICLE XVIII (REF B)
ABSENT CLEAR EXPRESSION OF PHIL WILLINGNESS TO RETREAT ON
ISSUE OF TAX ON U.S. AND THIRD COUNTRY CONTRACTORS IN RETURN
FOR SUCH A PROPOSAL, AND WE QUESTION NEED FOR SUCH PROPOSAL
(SEE PARA 2 BELOW). WE ALSO HAVE MISGIVINGS ABOUT LANGUAGE
OF USDEL'S PROPOSED NEW PARA 3 ARTICLE XVIII (PARA 5 REF A)
AS SET FORTH PARA 4 BELOW.

2. IN OUR OPINION, PARA 1 ARTICLE XVIII ALREADY OBLIGATES
US, WHEN FEASIBLE AND CONSISTENT WITH CRITERIA STATED
THEREIN, TO MAXIMIZE PROCUREMENT OF, INTER ALIA, QUOTE
SERVICES UNQUOTE, A REQUIREMENT THAT SEEMS SUFFICIENTLY
BROAD TO RENDER UNNECESSARY ANY EXPRESS TREATMENT FOR PHIL
CONTRACTORS IN A SEPARATE PARA. WE WOULD APPRECIATE YOUR
PRESSING TO EXTENT POSSIBLE FOR PHIL ACCEPTANCE OF TAX
:XEMPTION FOR NON-PHIL CONTRACTORS ON BASIS THIS OBLIGATION
ON U.S. CONTAINED IN APPROVED LANGUAGE TO MAXIMIZE PRO-
CUREMENT OF PHIL SERVICES.

3. NOTWITHSTANDING PHILS PROTESTATION OF ALLEGED DIS-
CRIMINATORY TAX TREATMENT OF PHIL CONTRACTORS, IT MAY WELL
BE, AS YOU HAVE DISCUSSED, THAT PHILS ARE CONCERNED LESS
WITH ISSUE OF TAXATION THAN WITH PROVIDING INCREASED
EMPLOYMENT OPPORTUNITIES FOR PHIL CONTRACTORS. IF PHILS
ARE MOTIVATED MORE BY COMMERCIAL INTERESTS THAN BY
PRINCIPLE INVOLVED, THEY WOULD BE MORE LIKELY TO ACCEPT
CONCEPT OF QUOTE INVITED CONTRACTORS UNQUOTE SUITABLY
ADAPTED FROM KOREAN SOFA. WE FEEL THAT SUCH A CONCEPT
COULD BE EMBODIED IN A SEPARATE ARTICLE, AS IN THE KOREAN
SOFA, OR PERHAPS IN CURRENT U.S. ARTICLE XVIII, SO LONG
AS THE STANDARDS FOR SELECTION OF U.S. OR THIRD COUNTRY
CONTRACTORS ARE CONSISTENT WITH EXISTING PRACTICES AND DO
NOT COMMIT US UNREASONABLY TO USE OF PHIL CONTRACTORS.

4. IN THIS CONNECTION, WE ARE CONCERNED THAT LANGUAGE IN
USDEL'S PROPOSED NEW PARA 3 OF ARTICLE XVIII (PARA 5 REF A)
PARTICULARLY PROPOSED SUB-PARA 3 THEREOF, WOULD NOT RPT
NOT BE CONSISTENT WITH EXISTING STANDARDS AND PRACTICES OF
AWARDING OF CONTRACTS. WE ALSO NOTE APPARENT INCONSISTENCY
USDEL'S PROPOSED PARA 3 ARTICLE XVIII WITH TENTATIVELY
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 181984

AGREED PARA 1 OF ARTICLE XVIII (PARA 4 REF B), AND THAT
PROPOSED NEW PARA 3 OBVIOUSLY SETS MORE STRINGENT,
SPECIFIC STANDARDS FOR AWARDING CONTRACTS TO NON-PHIL
CONTRACTORS THAN TENTATIVELY AGREED PARA 1. ASIDE FROM
DRAFTING DIFFICULTY THIS POSES, WE ARE EXTREMELY RELUCTANT
TO PROPOSE A PROVISION FOR AWARDING CONTRACTS THAT WOULD
SUPERSEDE CURRENT U.S. LAW AS STATED PARA 7 REF A, BOTH
FOR SUBSTANTIVE POLICY REASONS AND DIFFICULTY WE FEEL THIS

COULD POSE IN OUR CONGRESSIONAL PRESENTATION. WE ALSO ARE NOT CLEAR AS TO SPECIFIC RESPECTS IN WHICH USDEL MAY CONSIDER IT NECESSARY TO SUPERSEDE CURRENT U.S. LAW IN TERMS OF ACTUAL PRACTICE ON THE GROUND BY WHICH WE HAVE BEEN AWARDING CONTRACTS. THEREFORE, WHILE WE HAVE NO DIFFICULTY WITH YOUR PURSUING STRATEGY OF OFFER TO MAXIMIZE USE OF PHIL CONTRACTORS, WE ARE NOT RPT NOT ABLE TO AUTHORIZE PROPOSED LANGUAGE PARA 5 REF A. WOULD APPRECIATE USDEL'S FURTHER COMMENTS ON THESE POINTS. ROBINSON

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY BASE AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 JUL 1976
Decapton Date: 01 JAN 1960
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE181984
Document Source: CORE
Document Unique ID: 00
Drafter: GCHURCHILL/L/EA:EVERVILLE:KA
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760283-0243
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760727/aaaaaxow.tel
Line Count: 124
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN PM
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 MANILA 10276, 76 MANILA 10020
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 03 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 JUN 2004 by CunninFX>; APPROVED <27 SEP 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: HILIPPINE BASE NEGOTIATIONS: TAXATION
TAGS: MARR, RP, US
To: MANILA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006